

SEL/LPG/cas 08-023

6/24/08

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

|                          |   |                        |
|--------------------------|---|------------------------|
| PATRICK ARNOLD and       | ) |                        |
| ELIZABETH ARNOLD,        | ) | Case No. 1:08-cv-02168 |
| Plaintiffs,              | ) |                        |
|                          | ) |                        |
| v.                       | ) |                        |
|                          | ) |                        |
| BAXTER HEALTHCARE CORP., | ) |                        |
| Defendant.               | ) |                        |

**SUPPLEMENTAL MEMORANDUM  
IN SUPPORT OF MOTION TO REMAND**

As the Court is aware, on June 6, 2008, the Joint Panel on Multidistrict Litigation (JPML) granted a motion to create a multidistrict proceeding for several cases pending against Baxter Healthcare Corporation involving injury caused by the drug heparin. On June 17, 2008, the JPML issued a conditional transfer order (CTO) with respect to this case and notified the parties that the case will be transferred to the MDL court unless either party files an objection to the CTO before noon on July 2. *See* CTO (Baxter provided this Court with a courtesy copy of the CTO on June 23, 2008); JPML Rule of P. 7.4(a). If either party objects to the CTO, the order will be stayed and the transfer will not occur until the JPML rules on the objection. *Id.* at 7.4(c).

Although a CTO has been issued to the parties, this Court retains jurisdiction to rule on the pending motion to remand at this time. JPML Rule of P. 1.5; *Illinois Mun. Retirement Fund v. Citigroup, Inc.*, 391 F.3d 844, 850 (7<sup>th</sup> Cir. 2004); *Alegre v. Aguayo*, 2007 WL 141891 (N.D. Ill. 2007). The CTO will “not become effective unless and until [it is] filed with the clerk of the transferee district court,” JPML Rule of P. 7.4(e), which will not occur before July 2, and will be later if either party objects to the CTO.

Because of the pendency of the CTO, and to avoid further delay attributable to Baxter’s

improper removal of this case to federal court, plaintiffs respectfully request expedition of the Court's decision on the May 1, 2008 motion to remand and, if at all possible, a decision by July 1, 2008.

Dated: June 24, 2008

Respectfully submitted,

SUSAN E. LOGGANS & ASSOCIATES  
Attorneys for Plaintiffs

By: /s/Laura P. Gordon

Susan E. Loggans, #1684663  
Laura P. Gordon, #6294274  
SUSAN E. LOGGANS & ASSOCIATES, P.C.  
33 North LaSalle Street, Suite 3500  
Chicago, IL 60602  
(312) 201-8600  
(312) 201-1180 (fax)

Of counsel:  
Allison M. Zieve  
Brian Wolfman  
Public Citizen Litigation Group  
1600 20<sup>th</sup> Street NW  
Washington, DC 20008  
202-588-1000

**CERTIFICATE OF SERVICE**

I certify that on June 24, 2008, I electronically filed the attached Plaintiffs' Supplemental Memorandum in Support of Motion to Remand with the Clerk of the Court using the CM/ECF system which will send notification of such filing to:

Leslie M. Smith  
Renee D. Smith  
Andrew P. Bautista  
Kirkland & Ellis LLP  
200 East Randolph Drive  
Chicago, IL 60601

SUSAN E. LOGGANS & ASSOCIATES  
Attorneys for Plaintiffs

By: /s/Laura P. Gordon \_\_\_\_\_

Susan E. Loggans, #1684663  
Laura P. Gordon, #6294274  
SUSAN E. LOGGANS & ASSOCIATES, P.C.  
33 North LaSalle Street, Suite 3500  
Chicago, IL 60602  
(312) 201-8600  
(312) 201-1180 (fax)